

FEDERAL-STATE JOINT BOARD on UNIVERSAL SERVICE  
REVIEW of LIFELINE and LINK-UP SERVICE for ALL LOW INCOME CONSUMERS

CC Docket No. 96-45

**COMMENTS OF NORTH DAKOTA PUBLIC SERVICE COMMISSIONER**  
**SUSAN WEFALD**  
December 21, 2001

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Definitions used in these comments: Regular Lifeline and Link-Up means the original non-tribal Lifeline and Link-Up Program. Enhanced Lifeline and Link-Up means the Lifeline and Link-Up Program that serves people on tribal lands.

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**Effectiveness**

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**Question:** We encourage commenters to discuss whether there are other reasons that low-income individuals may not enroll in qualifying programs or participate in Lifeline/Link-Up. Commenters also should discuss whether existing or proposed qualification standards and enrollment procedures may serve to encourage or discourage increased participation among all low-income households.

**Answer:** The categories of qualifying programs in North Dakota have the ability to reach many of the people in North Dakota who need regular Lifeline and Link-Up (Attachment F).

Also, we have designed a very effective method of providing information to people who qualify for regular Lifeline and Link-Up (see process below). However, the "procedures" used to sign up people for regular Lifeline and Link-Up, after they qualify, may decrease the number of people who actually sign up for the program.

In North Dakota, the process works as follows: When North Dakotans go to the county office of North Dakota Department of Human Services (NDHS) and are determined eligible for any of the qualifying programs in the North Dakota Lifeline and Link-Up Program, they receive an information sheet about regular or enhanced Lifeline and Link-Up. Then, a short time later, each qualifying individual receives a certificate of eligibility in the mail from NDHS which states that the individual must return this certificate to the telephone company in order to receive regular Lifeline and Link-Up (See Attachment A). Opening, reading, and sending in this certificate require several more steps. The North Dakota Public Service Commission (NDPSC) doesn't know the proportion of people who are eligible, but who do not take these additional steps.

In addition, once a year, all eligible North Dakotans receive a new qualifying certificate from the NDHS. The annual sending of this certificate to eligible parties helps increase participation in Lifeline and Link-Up Programs by providing an additional opportunity to sign up with the local telephone company. Representatives of the NDPSC

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work closely with the NDHS on coordinating Lifeline and Link-Up matters through the year.

It has come to the attention of the NDPSC that several of the rural telephone companies in North Dakota automatically disconnect customers from the regular Lifeline and Link-Up Programs if customers do not send in a new qualifying certificate each year, even if the customer continues to be eligible for a qualifying program. This practice by several of our rural companies discourages participation in the Lifeline and Link-Up Programs. Some customers do not notice immediately that the discount is no longer being applied, and it can take them considerable effort and some time to get back on the program.

Qwest and some other North Dakota companies use a different method of verification: through arrangements with NDHS, these companies receive an annual list of eligible participants to verify against their current participation list and delete unqualified participants based on this list. Participants with these companies do not need to send in a qualifying certificate annually.

**Question:** Commenters should also discuss whether individuals living on reservations face barriers to participation and what modifications to the Lifeline and Link-Up Programs may be necessary to overcome those barriers.

**ND Answer:** Even in the enhanced program, where there is automatic eligibility upon qualifying for one of the many programs established by our state to meet the special needs of Native Americans, the person must have contact with telephone company personnel in order to sign the form, etc. The NDPSC has encouraged telephone companies serving the reservations in North Dakota to send personnel on a regular basis to Native American communities to sign people up for the Enhanced Lifeline and Link-up programs. The numbers of Native Americans served by these programs indicate the effort that the companies involved have put into this task.

An example that may illustrate the challenges involved in delivering the Enhanced Lifeline and Link-Up Programs in North Dakota relates to West River Telecommunications Cooperative and service to the Standing Rock Sioux Reservation. The nearest West River Telecommunications Cooperative office to the Standing Rock Sioux Reservation is more than 100 miles away. Thus, it is not convenient for people on tribal lands to stop in to the telephone company office and sign up for Lifeline and Link-Up. This fall, leaders of the Standing Rock Sioux stated that they were considering organizing their own telephone company, since they were not happy with the service from West River Telecommunications Cooperative and complaining about the small number of people receiving Lifeline and Link-Up (See Bismarck Tribune press clipping, Attachment B). Since then West River Telecommunications Cooperative personnel have been making regular visits to the Standing Rock Sioux Reservation to enable people to sign up for the program. West River Telecommunications Cooperative has reported the following enhanced lifeline statistics: August 2001 – 158, September 2001 – 235, October 2001 – 434, November 2001 – 532.

### **Eligibility Criteria**

**Question:** We seek comment on whether the current eligibility criteria should be modified. Specifically, commenters should address whether new eligibility criteria should be added to the existing list for Lifeline and Link-Up and Enhanced Lifeline and Link-Up, or whether particular eligibility criteria should be deleted from the existing list.

**Answer:** The Federal program for Enhanced Lifeline and Link-Up should include the programs that we have included in our North Dakota order (Attachment C - copy of December 29, 2000 order attached).

We have limited jurisdictions to require additional eligibility criteria for regular Lifeline and Link-Up (Attachment D). Expanding the federal criteria for these programs would help ensure that the program reaches more potential beneficiaries.

#### ***Page 7***

**Question:** We also seek comment regarding impediments that may prevent low-income households from obtaining affordable access to the network, including existing credit, collections, and disconnection policies and service application procedures that are required by local exchange companies. Commenters are requested to suggest alternatives to those procedures that are identified as impediments.

**Answer:** North Dakota rules require that any person who brings his or her local phone bill current and pays any required reconnection fee has the opportunity to be reconnected to local service. In North Dakota, our rules prohibit consumers from being denied local service due to an unpaid long distance bill. However, this information is not widely known by consumers. Disconnected customers on the reservations may have large phone bills that include both local and long distance charges. Our brochure on Enhanced Lifeline and Link-Up includes the following information: "If you have been disconnected for non payment of telephone bills, these programs are available to you if you bring your **local** bill current. You may be required to pay a reconnect fee." (Attachment E – NDPSC Brochures) Thus, especially on the reservations, it may be helpful for the FCC to also require that companies share this type of information with consumers. We have this information in our brochure about Enhanced Lifeline and Link-Up.

#### **Outreach**

#### ***Page 7***

**Question:** We seek comment on whether more extensive consumer education and outreach efforts are necessary to increase participation in the Lifeline and Link-Up Programs.

**Answer:** As with other issues, the NDPSC has limited jurisdiction to supplement the federal requirements. Thus, it would be helpful to North Dakotans if the federal requirements were strengthened. We are not aware of any outreach efforts in North Dakota for regular Lifeline and Link-Up other than some information in telephone books and some information in rural company newsletters that go to their own subscribers.

Information is also provided through the NDPSC working with the NDHS, to provide information to people who apply for assistance. While this plan is rather

effective, since it targets all who apply for assistance, it misses those who do not apply at NDHS for assistance programs.

The NDPSC realized several years ago that eligible Native Americans were not being reached through the regular Lifeline and Link-Up program. We made special efforts to contact eligible Native Americans through their tribes and social programs available through the tribes. When the Enhanced Lifeline and Link-Up Programs were put into effect last fall, our NDPSC worked with interested parties to establish additional eligibility criteria for the enhanced program (see Attachment C - copy of December 29, 2000 order).

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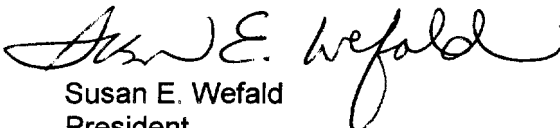
**Question:** We invite comment on the best practices of states, telecommunications companies, and non-profit organizations with regard to increasing participation in the Lifeline and Link-Up Programs, and assisting in eligibility verification.

**Answer:** The NDPSC has taken an interest in promoting both regular and enhanced Lifeline and Link-Up.

As noted above, the NDPSC has adopted expanded eligibility criteria for the Enhanced Lifeline and Link-Up program. We have written on two occasions to all of the tribal governments offering programs on Enhanced Lifeline and Link-Up. In response to that letter, a Commissioner and staff provided a workshop at the Spirit Lake Reservation, and had extensive phone discussions with people interested in Enhanced Lifeline and Link-Up at the Fort Berthold Reservation. Representatives of the NDPSC have also presented two workshops in the past year on Enhanced Lifeline and Link-Up to Native Americans.

The NDPSC has prepared brochures on both the regular and enhanced Lifeline and Link-Up that are distributed through NDHS to all people who go to the county social service offices to apply for qualifying programs (Attachment E). Also, the brochures are available on our website and are available in hard copy upon request for use on tribal lands and by other organizations in the state.

Finally, both regular and enhanced Lifeline and Link-Up Programs are frequent topics of discussion when the NDPSC holds quarterly meetings with the telecommunications industry.

  
Susan E. Wefald  
President

COUNTY SOCIAL SERVICES

STATE OF NORTH DAKOTA  
DEPARTMENT OF HUMAN SERVICES

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HOME TELEPHONE ASSISTANCE CERTIFICATE

DEAR

YOU HAVE RECEIVED THIS CERTIFICATE BECAUSE YOU ARE ELIGIBLE TO PARTICIPATE IN THE LINK UP AND LIFELINE PROGRAM. THE LINK UP PROGRAM ASSISTS WITH INITIAL TELEPHONE HOOK UP COSTS. THE LIFELINE PROGRAM WILL PAY A PART OF YOUR MONTHLY LOCAL TELEPHONE SERVICE (NOT LONG DISTANCE CALLS OR SERVICE).

TO ACCESS THE LINK UP AND LIFELINE PROGRAMS, COMPLETE THIS CERTIFICATE AND MAIL OR DELIVER IT TO YOUR LOCAL TELEPHONE COMPANY. IN THE SPACES BELOW, ENTER YOUR TELEPHONE NUMBER (IF YOU HAVE ONE), THE NAME OF THE INDIVIDUAL RESPONSIBLE FOR THE BILL, YOUR SIGNATURE AND THE DATE. IF YOU DO NOT HAVE A TELEPHONE, PLEASE PROVIDE YOUR NAME, SIGNATURE AND THE DATE.

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SOCIAL SECURITY NUMBER:

TELEPHONE NUMBER: \_\_\_\_\_ BILLING NAME \_\_\_\_\_

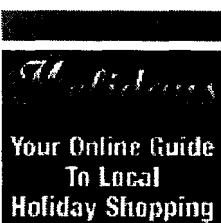
ELIGIBLE APPLICANT'S SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

YOUR SIGNATURE PERMITS THE TELEPHONE COMPANY, THE DEPARTMENT OF HUMAN SERVICES AND YOUR LOCAL COUNTY SOCIAL SERVICE BOARD TO USE YOUR SOCIAL SECURITY NUMBER TO VERIFY YOUR ELIGIBILITY. YOUR LOCAL TELEPHONE COMPANY WILL VERIFY YOUR CONTINUED ELIGIBILITY ONCE A YEAR.

IF YOUR LOCAL TELEPHONE SERVICE IS PROVIDED BY QWEST COMMUNICATIONS, MAIL THIS CERTIFICATE TO PO BOX 2738, OMAHA NE 68103-2738. OTHERWISE, SEND OR DELIVER THIS COMPLETED CERTIFICATE TO YOUR LOCAL TELEPHONE COMPANY.

MOST TELEPHONE COMPANIES IN NORTH DAKOTA PARTICIPATE IN THE TELEPHONE ASSISTANCE PROGRAM. IF YOU HAVE QUESTIONS ABOUT LINK UP OR LIFELINE, CONTACT YOUR LOCAL TELEPHONE COMPANY. THE NORTH DAKOTA PUBLIC SERVICE COMMISSION CAN ALSO ANSWER YOUR QUESTIONS AT 701-328-2400.

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October 23-178, 2001

Standing Rock looks for phone solution

By LAUREN DONOVAN, Bismarck Tribune

Half of the Standing Rock Sioux Reservation members don't live a phone call away from anything. They don't have telephones.

Saying that level of service cannot persist, the tribal government has hired a consultant to study the feasibility of taking over service from West River Telecommunications Cooperative of Hazen.

The co-op provides phone service for all but a fraction of the reservation.

Tribe management specialist Mark White Bull said the consultant's report should be available next month and that the plan has additional momentum with the recent re-election of tribal Chairman Charles Murphy.

"We are serious," White Bull said. "We'd like to see a phone in every home." White Bull said even urban ghettos have 94 percent phone coverage.

With about 1,700 subscribers, the reservation represents about 10 percent of the co-op's business, said West River general manager Mick Grosz.

Grosz said he disagrees with the tribe's numbers.

Phones are wired to 95 percent of homes on the reservation, but many don't buy phone service for a variety of reasons, including socioeconomic, he said.

Grosz said although meetings between co-op and reservation representatives haven't resulted in a "bona fide" request to buy out the co-op's

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holdings on the reservation, "I think the board would say, 'We're not selling.' Our feeling is that we have the proper authority to operate on the reservation."

With such a chunk of the co-op's business at stake, Grosz said co-op is willing and anxious to discuss what needs the reservation has.

White Bull said the reservation has several key problems with the co-op's service and one larger philosophical one, that of putting profit above service to everybody.

One key problem was solved as of Friday, when the co-op dissolved most long distance charges on the reservation. That means members who have a phone can now make local calls almost everywhere on the reservation for an extra \$1 to \$3 on their monthly bill, Grosz said. That does not include the small area served by Qwest.

White Bull said tribal leaders are also concerned about the co-op's apparent lack of commitment to a federal program that reimburses the phone company's true costs for reservation members who qualify for \$1 phone service.

"They get \$1 million for Standing Rock and no one is benefiting from it," White Bull said. "One of their people told us they're not a social service agency."

West River is advertising the \$1 program on reservation radio and in newspapers and holding information meetings across the reservation.

Grosz said the program, a new twist on one that's been around much longer, has been in effect for a year. He wouldn't say how many reservation members are on the reduced phone program, only that new names are being added daily. He did say the phone company made prior efforts to make sure Social Services and other tribal entities knew about it.

"We're most concerned about getting to those who don't have phone service. It's harder for us to find them. We don't know who they are necessarily," Grosz said.

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White Bull also said the reservation doesn't have any representation on the co-op's board of directors.

Grosz said there is no provision for treating the reservation differently than any other district in the co-op, where directors are elected by phone patrons.

The phone utility is just one business the reservation wants to do for itself.

The tribe is also studying the potential for buying and selling electricity, utilizing the two utilities that serve the reservation, Mor-Gran-Sou Cooperative of Flasher and Moreau Grand Electric of Timber Lake, S.D.

White Bull said that concept is meeting mixed response.

"They thought they would have this (business) forever and now forever is here," he said.

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**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Universal Service - FCC  
PSC Comments/Letters**

Case No. PU-439-96-149

**ORDER AMENDING THE  
LIFELINE PLAN AND THE LINK UP PLAN FOR NORTH DAKOTA**

**December 29, 2000**

**Preliminary Statement**

On May 8, 1997, the Federal Communications Commission (FCC) issued its Universal Service Report and Order, CC Docket 96-45, Order No. 97-157 (Order) implementing the Telecommunications Act of 1996. The Order provided that a telecommunications carrier must offer Lifeline and Link Up services to qualified low-income consumers in order to be designated as an eligible telecommunications carrier. The Order also restructured the federal Lifeline and Link Up programs to be effective January 1, 1998.

On November 5, 1997, this Commission issued an Order Adopting a Lifeline Plan and Link Up Plan for North Dakota which were modeled after and complied with the Lifeline and Link Up plans adopted by the Federal Communications Commission (FCC).

On May 31, 2000, the FCC adopted interstate access reform and universal service plan changes in FCC Docket 00-193. The FCC order made changes to the federal Lifeline and Link Up plans and provided additional support for telephone service to low income consumers.

On June 8, 2000, the FCC adopted an order in FCC Docket 00-208 to promote deployment and subscribership in unserved and underserved areas, including tribal areas. This order also made changes to the federal Lifeline and Link Up plans (Extended Lifeline and Extended Link Up).

On August 16, 2000, the Commission issued a Notice of Intent to Amend a Previous Order Regarding the North Dakota Lifeline Plan and Link Up Plan. The Commission proposed amendments to its November 5, 1997, Lifeline and Link Up plans to comply with the federal Extended Lifeline and Extended Link Up plans. Interested parties were given until September 25, 2000, to file comments.

On September 25, 2000, the North Dakota Association of Telephone Cooperatives filed comments urging the Commission to adopt rules that allow

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consistent eligibility criteria for residents of Tribal lands for both state-mandated and Tier Four Lifeline and Link Up. The NDATC also urged the Commission to adopt a certification process for state-mandated Lifeline for eligible residents of Tribal lands that can also accommodate Tier Four Lifeline certification.

On October 17, 2000 an Informal Hearing was held on this matter. Theresa Snyder, from the North Dakota Department of Human Services, made suggestions of social services programs provided to residents of tribal areas which may be used as criteria to qualify low-income consumers for any Extended Lifeline and Extended Link Up plans proposed for North Dakota

### **Discussion**

1. As a result of the proposed changes, Lifeline customers will receive federal support per month that will offset the current level of end user common line charge assessed by the local exchange carriers (Tier 1).
2. Lifeline customers will continue to receive an additional \$1.75 per month in federal support to reduce the intrastate service portion of the Lifeline service rate paid by the customer (Tier 2). Lifeline customers will also continue to receive additional support in local exchange areas where the local company is providing additional support and receiving matching federal support equal to one half of any support generated by the company (Tier 3).
3. Lifeline customers that are residents of a Tribal land will receive additional support up to \$25 per month (Tier 4). This amount cannot bring the basic local residential rate (including any mileage, zonal, or other non-discretionary charges associated with basic residential service) below \$1 per month per qualifying low-income subscriber on Tribal lands.
4. Residents of a Tribal land will receive additional Link Up benefits. In addition to federal support equal to 50 percent of charges up to \$60 for commencing telecommunications service at the principal place of residence, the revised Link Up plan provides a reduction of up to \$70 to cover 100 percent of the charges between \$60 and \$130 assessed for commencing telecommunications service at the principal place of residence of the eligible resident of Tribal lands
5. After consideration of the comments in this proceeding and investigation by the Commission concerning social services programs administered in North Dakota, the Commission finds that the ND Lifeline and Link Up plans should be amended to promote deployment and subscribership in tribal areas. We find that the appropriate income guideline for qualification for the Extended Lifeline and Link Up plans should be 195% of the federal poverty guidelines published annually by the United States Department of Health and Human Services. In addition, the North Dakota Lifeline and

Link Up Plans are revised to name social services programs to be used as qualification for low-income consumers living in tribal areas.

**Order**

The Commission orders that the Lifeline and Link Up plans, as modified and as attached hereto, are adopted as North Dakota's Lifeline and Link Up plans.

**PUBLIC SERVICE COMMISSION**

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**Susan E. Wefald**  
**Commissioner**

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**Bruce Hagen**  
**President**

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**Leo M. Reinbold**  
**Commissioner**

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Universal Service - FCC  
PSC Comments/Letters**

**Case No. PU-439-96-149**

**NORTH DAKOTA LIFELINE PLAN AND LINK UP PLAN**

**December 29, 2000**

A carrier designated as an eligible telecommunications carrier by the North Dakota Public Service Commission (Commission) shall make Lifeline and Link Up services available to qualifying low-income consumers according to the North Dakota Lifeline Plan and Link Up Plan. When a carrier applies to be designated as an eligible telecommunications carrier, it shall file information which demonstrates that the carrier's Lifeline and Link Up plans meet the criteria of the North Dakota Lifeline and Link Up plans. To qualify for federal support, the eligible telecommunications carrier shall file information with the federal fund Administrator which demonstrates that the carrier's Lifeline and Link Up plans meet the criteria of the state. A carrier's plan shall also satisfy the federal criteria as set forth in 47 CFR 54.400 to 54.417.

A qualifying low-income consumer is a North Dakota resident who is eligible to receive assistance under one of the four major economic assistance programs administered by the Department of Human Services: Public Assistance (formerly Aid to Families with Dependent Children), Food Stamps, Energy Assistance or Medicaid.

An eligible resident of Tribal lands is a "qualifying low-income consumer", living on or near a reservation as defined in 25 CFR 20.1(r) and 20.1(v).

An eligible resident of Tribal lands is an individual whose income is equal to or less than 195 percent of the federal poverty guidelines adopted by the United States Department of Health and Human Services or is participating in one of the following federal assistance programs: Bureau of Indian Affairs General Assistance; Food Distribution Program on Indian Reservations, Food Stamps (only those individuals eligible to receive Food Stamp benefits), Head Start or Early Head Start (only those individuals meeting its income qualifying standard), Low-Income Home Energy Assistance Program, Medicaid, National School Lunch Program's free lunch program, Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Supplemental Security Income, or Temporary Assistance for Needy Families (TANF); or the North Dakota Healthy Steps - Children's Health Insurance Plan (CHIP).

## ***Link Up***

1. Link Up means:
  - (1) A reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reduction shall be half of the customary charge or \$30, whichever is less, and
  - (2) A deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be for connection charges of up to \$200 that are deferred for a period not to exceed one year.
  - (3) For an eligible resident of Tribal lands, a reduction of up to \$70, in addition to the reduction in paragraph (1), to cover 100 percent of the charges between \$60 and \$130 assessed for commencing telecommunications service at the principal place of residence of the eligible resident of Tribal lands.
  - (4) A qualifying low-income consumer may choose one or both of the programs set forth in paragraphs (1) and (2). An eligible resident of Tribal lands may participate in paragraphs (1), (2), and (3).
2. Charges assessed for commencing service include any charge that a carrier customarily assesses to connect a subscriber to the network, including facilities-based charges associated with the extension of lines or construction of facilities needed to initiate service. The reduction shall not apply to charges assessed for facilities or equipment that fall on the customer side of demarcation point. These charges do not include any permissible security deposit requirements.
3. A carrier's Link Up program shall allow a consumer to receive the benefit of the Link Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link Up assistance was provided previously.

## ***Lifeline***

1. Lifeline service means a retail local telecommunications offering for which qualifying low-income consumers pay reduced charges.
2. Lifeline service includes voice grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-

party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation.

3. An eligible telecommunications carrier that charges the federal End-User Common Line charge to a qualified low-income customer shall waive the federal End-User Common Line charge (Tier One).
4. An eligible telecommunications carrier shall reduce the intrastate portion of the charge for monthly Lifeline service by an additional \$1.75 (Tier Two).
5. An eligible telecommunications carrier that supplies support for Lifeline service in addition to that described above shall reduce the intrastate portion of the charge for Lifeline service by \$1.50 for every dollar of additional support supplied (Tier Three).
6. An eligible telecommunications carrier shall make available additional Lifeline support of up to \$25 per month for Lifeline service to an eligible resident of Tribal lands. This amount does not bring the basic local residential rate (including any mileage, zonal, or other non-discretionary charges associated with basic residential service) below \$1 per month per qualifying low income subscriber on Tribal lands (Tier Four).
7. An eligible telecommunications carrier providing Lifeline service shall adjust its lowest tariffed (or otherwise generally available) residential rate for Lifeline service to qualified low-income customers by reducing the total amount due for monthly universal service by the sum of the dollar amounts of Tier One and Tier Two.
8. An eligible carrier shall offer either toll blocking or toll control, whichever is selected by the particular consumer, when that consumer subscribes to Lifeline service.
9. An eligible telecommunication carrier may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.
10. An eligible telecommunications carrier may not disconnect Lifeline service for non-payment of toll charges unless the Commission grants a waiver of this requirement.
11. Lifeline must be offered as a separately priced service and must include all of the features described above. The service must be specifically identified as a separate service in the carrier's filed price schedule. A carrier unable to provide toll limitation, access to enhanced 911 service, or single party service must apply for a waiver as provided for in the federal Order.

12. Any reduction in the intrastate portion of a carrier's Lifeline service rate, which will allow a low-income customer to take advantage of the federal offers of additional support, is herewith approved.

**General**

An eligible telecommunications carrier shall publicize the availability of Lifeline and Link Up services in a manner reasonably designed to reach those likely to qualify for the service.

The North Dakota Department of Human Services will verify a customer's eligibility to participate in either Lifeline or Link Up for those individuals eligible to participate in state administered programs.

For residents of Tribal lands, eligibility to participate may also be verified by a Director of the programs administered by the Tribe using a direct reporting plan. The first week of February, the Director may send a list of names, addresses, social security numbers, and phone numbers of all the individuals living on Tribal lands who are qualified as defined in this plan. The list will be divided into two parts. One part will list the names of individuals who already have phone service. The second part will list the names of individuals who do not have a phone. This list is provided to the provider of Lifeline telephone service. This will enable the telephone company to review their list to remove those individuals who are no longer eligible and add those individuals who have become eligible.

A resident of Tribal lands may also participate in the Lifeline or Link Up program by self-certifying to the Lifeline service provider their income eligibility or eligibility for an assistance program listed in the Lifeline or Link Up plan for residents of Tribal lands.

The Commission encourages all providers of Lifeline and Link Up to offer customer directory listings as part of their offered services.

**PUBLIC SERVICE COMMISSION**

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**Susan E. Wefald**  
Commissioner

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**Bruce Hagen**  
President

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**Leo M. Reinbold**  
Commissioner

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MEMORANDUM FCC MAIL ROOM

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TO: Commissioners Wefald, Reinbold and Clark  
FROM: Bill Binek  
DATE: July 9, 2001  
RE: Opinion regarding Commission authority regarding Lifeline Plans

The Commission requested an opinion regarding the Commission's authority to impose a 195% of poverty level criteria for eligibility to receive Lifeline and Link Up support.

In the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996 Act), Congress directed that the Federal Communications Commission (FCC) and the states develop a universal support system to assure the delivery of affordable telecommunications services to everyone, including low-income consumers.

Section 254(e) of the 1996 Act provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support."

On May 8, 1997, the Federal Communications Commission (FCC) issued its Universal Service Report and Order, CC Docket 96-45, Order No. 97-157 (Order) implementing the Telecommunications Act of 1996. The FCC provides that only eligible telecommunications carriers (ETC) are eligible to receive Lifeline and Link Up support. (See 47 CFR § 54.201(a)). The Order provided that a telecommunications carrier must offer Lifeline and Link Up services to qualified low-income consumers in order to be designated as an eligible telecommunications carrier. The Order also restructured the federal Lifeline and Link Up programs to be effective January 1, 1998. In addition the FCC provided that "if the state commission approves an additional reduction of \$1.75 in the amount paid by consumers, additional federal Lifeline support in the amount of \$1.75 will be made available to the carrier providing Lifeline service to that consumer." (Tier 2). The Commission stated in its September 16, 1997 Notice of Hearing Regarding the North Dakota Lifeline Plan and Link Up Plan that time was of the essence in order to allow sufficient time for the eligible telecommunications carriers to amend existing service tariffs and establish program administration, and that it was imperative that the Commission issue an order in the matter soon.

The FCC order provided that the state commission file or require the carrier to file information with the Administrator demonstrating that the carrier's Lifeline plan is consistent with FCC criteria. To obtain the additional \$1.75 funding under Tier 2 it appeared that the state commission was unknowingly designated by the FCC to approve a rate reduction of \$1.75 for Lifeline service even though the Commission did not regulate the rates of the Rural Telephone Carriers and small companies. In states



not providing state Lifeline support, the FCC also required each carrier offering Lifeline to obtain customer signature certifying that the customer receives benefits from Lifeline of Link Up.

On November 5, 1997, this Commission issued an Order Adopting a Lifeline Plan and Link Up Plan for North Dakota which were modeled after and complied with the Lifeline and Link Up plans adopted by the Federal Communications Commission (FCC).

On May 31, 2000, the FCC adopted interstate access reform and universal service plan changes in FCC Docket 00-193. The FCC order made changes to the federal Lifeline and Link Up plans and provided additional support for telephone service to low income consumers.

On June 8, 2000, the FCC adopted an order in FCC Docket 00-208 to promote deployment and subscribership in unserved and underserved areas, including tribal areas. This order also made changes to the federal Lifeline and Link Up plans (Extended Lifeline and Extended Link Up). The North Dakota Lifeline and Link Up plan incorporates the federal eligibility criteria plus additional criteria established by the North Dakota Public Service Commission. Additional criteria adopted in the North Dakota plan would qualify individuals whose income is equal to or less than 195 percent of the federal poverty guidelines adopted by the United States Department of Health and Human Services or is participating in one of the following federal assistance programs: Food Stamps (only those individuals eligible to receive Food Stamp benefits), Head Start or Early Head Start (only those individuals meeting its income qualifying standard), Low-Income Home Energy Assistance Program (LIHEAP), Medicaid, National School Lunch Program's free lunch program, Special Supplemental Nutrition Program for Women, Infants and Children (WIC), Supplemental Security Income, or Temporary Assistance for Needy Families (TANF); or the North Dakota Healthy Steps - Children's Health Insurance Plan (CHIP).

On August 16, 2000, the Commission issued a Notice of Intent to Amend a Previous Order Regarding the North Dakota Lifeline Plan and Link Up Plan. The Commission proposed amendments to its November 5, 1997, Lifeline and Link Up plans to comply with the federal Extended Lifeline and Extended Link Up plans. Interested parties were given until September 25, 2000, to file comments.

On December 29, 2000, the Commission issued an Order Amending the Lifeline Plan and a Link Up Plan for North Dakota to provided additional support for telephone service to low-income consumers and to promote telephone service deployment and subscribership in tribal areas. These changes were made in response to changes made by the FCC to the federal Lifeline and Link Up plans.

On December 29, 2000, the Commission issued a Notice of Intent to Amend a Previous Order Regarding the North Dakota Lifeline Plan and Link Up Plan to include, for low-income subscribers not on tribal lands, qualification criteria similar to that adopted for those low-income subscribers on tribal lands.

At an informal hearing on March 14, 2001, a representative for a group of Rural Telephone Cooperatives and small telephone companies objected to the imposition of the additional guidelines, in particular the 195% of federal poverty guideline, on the grounds that North Dakota does not mandate state Lifeline support, and consequently the Commission does not have authority to impose criteria greater than that mandated by the federal guidelines. The federal consumer qualifications for Lifeline are found in 47 CFR § 54.409. Under section 54.409(a), the rule provides that "[t]o qualify to receive Lifeline service **in a state that mandates state Lifeline support, a consumer must meet the eligibility criteria established by the state commission for such support.**" Section 54.409(b) states that "[t]o qualify to receive Lifeline service **in a state that does not mandate state Lifeline support, a consumer must participate in one of the following federal assistance programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; and Low Income Home Energy Assistance Program.**" The Rural Telephone Cooperatives and small telephone companies argued that Section 54.409(b) is controlling because North Dakota does not mandate state Lifeline support, and therefore, only the federal eligibility criteria can be used in the North Dakota Lifeline and Link Up plan for low income subscribers not on tribal lands.

The federal Lifeline program provides for total reimbursement to telecommunications companies for rate reductions under Tier 1 and Tier 2 support. Voluntary Tier 3 support is available throughout the State of North Dakota, but only two telecommunications companies have been required to provide Tier 3 support as a result of settlement stipulations. Qwest Corporation (formerly US West Communications, Inc. and previously Northwestern Bell Telephone Co.) agreed to provide Tier 3 support under a stipulation entered into between the company and the Public Service Commission staff in *Northwestern Bell Telephone Co., Access rate reduction*, Case No. PU-415-89-396. SRT Communications, Inc. (formerly Minot Telephone Company) agreed to provide Tier 3 Lifeline support in a settlement agreement involving *Northern States Power Company, Telephone Financial Condition Investigation*, Case No. PU-400-90-284 and *Minot Telephone Company, Buy Northern States Power Company, Application*, Case No. PU-156-90-355. The obligations contained in the orders issued in those cases were assumed by subsequent purchasers of the Minot exchange and exchanges sold by Qwest.

A Federal contribution will be provided to telephone companies on a matching basis for Tier 3 rate reductions. An important question that must be answered is what qualifies as state support. I visited with Dana Bradford and Mark Naydell at the FCC. They advised that under the law, there is state mandated support so long as there is support at the state level regardless of the source of the funds. They also stated that a state has authority to adopt state criteria even where state support does not cover all exchanges within the state. In North Dakota the "state mandated support" is available to approximately 75% of the subscribers in the state. A company that is not mandated to provide Tier 3 support can still voluntarily provide such support.

Dana Bradford and Mark Naydell did not provide any specific statutory authority for their positions, but were confident in those positions. I believe that this Commission, in its deliberations, needs to consider the fact that there is no state support available in exchanges that comprise approximately 25% of the telephone subscribers in the state. This Commission must also look at its authority under state law to create and implement Lifeline and link up plans.

The Lifeline and Link Up programs preceded the enactment of the 1996 Act. The federal rules require that a telecommunications company must provide Lifeline and Link Up services in order to be designated as an ETC to receive universal service support. This Commission has authority under N.D.C.C. § 49-21-01.7 to "[d]esignate telecommunications companies as eligible telecommunications carriers to receive universal support under sections 214 and 254 of the federal act." However, I do not find any provision in N.D.C.C. Chapter 49-21 where the legislature has granted authority to the Commission to adopt or implement Lifeline and Link Up plans.

The legislature has made it clear that its intent is that the Commission's jurisdiction concerning telecommunications is limited to what is explicitly stated in the law. The Commission has requested enabling legislation to provide jurisdiction to implement the provisions of the federal act, but the telecommunications industry in North Dakota has opposed such legislation, and the legislature has rejected it. The Commission has assumed jurisdiction in some questionable areas relating to telecommunications where the industry has requested it in order to assist the industry in complying with the 1996 Act. In my opinion, this is one of those areas. The industry does not object to the exercise of jurisdiction when it is to their benefit. However, when the situation changes, as we recognize in this proceeding, the industry always has the opportunity to challenge Commission jurisdiction that is not specifically stated in the law. The Commission is on dangerous ground in the telecommunications arena when it implies or assumes jurisdiction that is not specifically spelled out in the law.

Telecommunications carriers in North Dakota voluntarily requested this Commission to establish or approve Lifeline and Link Up plans for use in North Dakota because of the requirements contained in the federal rules. However, neither federal law nor federal rules can provide authority for the Commission to act. The North Dakota legislature must provide such authority to the Commission. It is my opinion that authority to designate a telecommunications carrier as an ETC does not extend authority for the Commission establish or approve Lifeline and Link Up plans.

If the Commission determines that legislative authority does exist to establish or approve Lifeline and Link Up plans then, based on the FCC staff's interpretation of federal law, I believe the Commission would have authority to adopt state criteria in its plans.

wwb\mem\Lifeline and Link Up Jurisdiction Opinion

E.

# CAN'T AFFORD TELEPHONE SERVICE? LINK UP AND LIFELINE PROGRAMS FOR TRIBAL AREAS CAN HELP



## HOME TELEPHONE ASSISTANCE

These programs allow eligible persons on tribal lands to receive local telephone service for \$1.00 a month plus taxes. They also offer assistance with telephone service hook up costs.

### LINK UP

- ◆ Assists with initial hook up charges for primary telephone service (\$100 maximum)
- ◆ Telephone company may set up a payment plan on the balance and waive interest.
- ◆ Contact your local telephone company to find out if you qualify for hook up service without a deposit.

### LIFELINE

- ◆ Provides primary local telephone service for \$1.00 a month (plus taxes) for eligible persons.
- ◆ Applies only to primary local telephone service in the home.

### WHO IS ELIGIBLE?

Residents of tribal lands whose income is equal to or less than 195% of the federal poverty guidelines

OR

Residents of tribal lands participating in at least one of the following programs: BIA General Assistance, Food Distribution Program, Food Stamps benefit recipient, Head Start or Early Head Start (only those meeting its income qualifying standard), Heating Assistance, Medicaid, National School Free Lunch Program, WIC, SSI, TANF, or the North Dakota Healthy Steps – Children's Health Insurance Plan (CHIP).

NOTE: *If you have been disconnected for non payment of telephone bills, these programs are available to you if you bring your local bill current. You may be required to pay a reconnect fee.*

### HOW TO OBTAIN THE TELEPHONE SERVICES

You may self certify at your local telephone office that you qualify for one of the above programs.

OR

When you qualify for any programs administered through your county social services office you will *automatically* receive a Qualifying Certificate within a month by mail. Provide the Qualifying Certificate to your local telephone company and do the necessary paperwork.

OR

When you qualify for any programs administered by tribal offices, the tribal program administrator can provide verification of eligibility to the telephone company. Contact the telephone company to do the necessary paperwork.

### HOW LONG WILL THESE BENEFITS CONTINUE?

- ◆ If you no longer meet the eligibility guidelines above, you no longer qualify for Link Up or Lifeline.

### MORE INFORMATION

- ◆ For more information on ***Link Up and Lifeline***, please contact **your local telephone company**.

# CAN'T AFFORD TELEPHONE SERVICE: LINK UP AND LIFELINE PROGRAMS CAN HELP



## HOME TELEPHONE ASSISTANCE

Link Up and Lifeline help eligible people pay **PART** of their telephone costs.

### LINK UP

- ♦ Will save you 50% of the initial charges to hook up primary telephone service, or \$30, whichever is less.
- ♦ Your telephone company may defer payment on the balance and waive interest.
- ♦ You may qualify for service without a deposit. Ask your local telephone company.

### LIFELINE

- ♦ Can save you at least \$5.25 on your monthly phone bill for primary local telephone service.
- ♦ Applies only to primary local telephone service in the home where you live.

### WHO IS ELIGIBLE?

Anyone qualified under one of the four major economic assistance programs: **TANF, Food Stamps, Energy Assistance, Medicaid.**

### HOW TO OBTAIN THE TELEPHONE SERVICES

- ♦ When you qualify for TANF, Food Stamps, Energy Assistance, or Medicaid through your county social services office you will *automatically* receive a Qualifying Certificate within a month by mail.
- ♦ Provide the Qualifying Certificate to your local telephone company.

### WHAT IF MY BENEFITS STOP?

If you no longer qualify for any economic program, you no longer qualify for Link Up or Lifeline.

### MORE INFORMATION

- ♦ For more information on *Link Up and Lifeline*, call your local telephone company.
- ♦ For questions on *eligibility*, call your county social services office.

**NOTE: People who live on tribal lands may be eligible for a separate Tribal Link Up and Lifeline Programs. Contact your local telephone company for information.**

F

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

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**Public Service Commission  
Universal Service - FCC  
PSC Comments/Letters**

**Case No. PU-439-96-149**

**ORDER ADOPTING  
A LIFELINE PLAN AND A LINK UP PLAN FOR NORTH DAKOTA**

**November 5, 1997**

**Appearances**

**Commissioners Bruce Hagen and Susan Wefald.**

**Patrick Fahn, Chief Engineer, Public Service Commission State Capitol, Bismarck, ND 58505, appearing for the Pubic Service Commission Staff.**

**Ronald Knutson, Assistant Director of the Low Income Home Energy Assistance Program, Department of Human Services, administrator of the present Lifeline program under its Telephone Assistance Program.**

**Jan Sebby, Attorney at Law, Pringle and Herigstad PC, P. O. Box 1000, Minot, North Dakota 58702-1000, appearing for the Rural Telephone Company Group, a group of local telecommunications companies operating in North Dakota.**

**William Heaston, Senior Attorney at Law, U S WEST, Communications, Inc., 1801 California Street, Room 5100, Denver, CO 80202, appearing for U S WEST Communications, Inc.**

**Allen Hoberg, Office of Administrative Hearing, 1707 North 9<sup>th</sup> Street, Lower Level, Bismarck, ND 58501, appearing as Procedural Administrative Law Judge.**

**Preliminary Statement**

1. On May 8, 1997, the Federal Communications Commission (FCC) issued its Universal Service Report and Order, CC Docket 96-45, Order No. 97-157 (Order) implementing the Telecommunications Act of 1996.

2. The Order provides that a telecommunications carrier must offer Lifeline and Link Up services to qualified low-income consumers in order to be designated as an eligible telecommunications carrier. The Order also restructures the federal Lifeline and Link Up programs to be effective January 1, 1998.

3. On September 16, 1997, the North Dakota Public Service Commission (Commission) issued a Notice of Hearing concerning the adoption of state Lifeline and Link Up plans. The notice was published twice in weekly newspapers throughout the state and noticed a hearing for October 23, 1997, at the Commission's offices in the state capital.

4. The proposed state Lifeline and Link Up plans are essentially the same as the present plans, which were adopted in 1989 for U S WEST customers initially and later for Souris River (Minot Telephone) customers.

5. The hearing was held as noticed before Mr. Allen Hoberg, Administrative Law Judge, Office of Administrative Hearings.

### ***Discussion***

6. Lifeline is a retail local service for which a qualifying low-income consumer pays a reduced charge. The local telephone company is reimbursed for the amount of the discount from a federal universal service fund.

7. Link Up is a reduction in a telephone company's charge for linking up a customer to a telephone company's system. The local telephone company is reimbursed for the amount of the discount from a federal universal service fund.

8. Lifeline customers will receive \$3.50 per month in federal support automatically and will receive an additional \$1.75 per month in federal support if the state approves a reduction in the intrastate service portion of the Lifeline service rate paid by the customer.

9. A state has the option of providing state support and if it does, a Lifeline customer will receive additional federal support equal to one half of any support generated by a state, up to a maximum of \$7.00 in federal support.

10. The FCC Order provides that state Lifeline and Link Up plans must be based on income or factors directly related to income. North Dakota's proposed plans closely follow the federal plans and are based on income or factors related to income.

11. To qualify for federal support, the Commission must either file, or require eligible carriers to file, information with the federal fund Administrator which demonstrates that the carrier's Lifeline plan meets the criteria of the state. A carrier's plan must also satisfy the federal criteria as set forth in the Order and as codified in 47 CFR 54.400 to 54.417. The filing must state the number of qualifying low-income consumers and the amount of state assistance provided.

12. To meet these federal requirements the Commission proposed that a carrier file the necessary information with the Administrator as well as with the Commission when the carrier applies to be designated as an eligible telecommunications carrier. No carriers have objected to the proposal.

13. Witness Patrick Fahn outlined several changes to the Commission's proposed plan, which will directly incorporate wording from the FCC Order into the state plan. The proposed changes do not change the substance of the state plan as initially proposed.

14. Witness Ronald Knutson of the North Dakota Department of Human Services explained the operation of the present state Lifeline and Link Up programs. The Commission appreciates the willingness of the Department of Human Services to verify eligibility of participants for the present plans and is grateful for the Department's willingness to continue to verify the eligibility of participants for the proposed plans.

15. Witness Jan Sebby testified that all members of the Rural Telephone Company Group would offer Lifeline and Link Up services as required under the federal Order and the state plan if the carriers are designated as eligible telecommunications carriers.

16. Witness Bill Heaston of U S WEST described the extent of customer participation in the present U S WEST Lifeline and Link Up plans. He also noted that the plans would be modified as of January 1, 1998, if necessary, to comply with the proposed state plan and the federal requirements.

17. U S WEST recommended two changes to the proposed plan. The first would restrict participation in the plans to a head of household and the second would allow a customer to take advantage of the Link Up discount a second time at the same address if a disconnect is for financial reasons other than failure to pay for Lifeline services. The Commission fears that the proposed changes might not comply with the federal Lifeline requirements and rejects the proposed changes for the present.

18. The Commission recognizes that primary directory listings, including non-listed and non-published service, are listed as an essential service in N.D.C.C. 49-21-01.3. The Commission has not considered or come to any decision as to whether all essential services should be required services under the Lifeline program. The Commission recognizes that directory listings, both listed and unlisted, provide important consumer benefits and encourage use of the network. Therefore, the Commission encourages all providers of Lifeline and Link Up to offer customer directory listings as part of their offered services.

## **Findings of Fact**



1. The Commission finds that the proposed state Lifeline and Link Up plans comply with the FCC Order and adopts the proposed plans, as modified, as North Dakota's Lifeline and Link Up plans.

### **Order**

The Commission orders:

1. The Lifeline and Link Up plans, as modified and as attached hereto, are adopted as North Dakota's Lifeline and Link Up plans.
2. A carrier seeking designation, as an eligible telecommunications carrier must file the information required by the federal Order with the federal Administrator as well as with the Commission.

### **PUBLIC SERVICE COMMISSION**

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**Bruce Hagen**  
**Commissioner**

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**Leo M. Reinbold**  
**President**

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**Susan E. Wefald**  
**Commissioner**

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Public Service Commission  
Universal Service - FCC  
PSC Comments/Letters**

**Case No. PU-439-96-149**

**NORTH DAKOTA LIFELINE PLAN AND LINK UP PLAN**

**November 5, 1997**

***General***

1. A carrier designated as an eligible telecommunications carrier by the North Dakota Public Service Commission (Commission) shall make Lifeline and Link Up service available to qualifying low-income consumers according to the North Dakota Lifeline Plan and Link Up Plan.
2. A qualifying low-income consumer is a North Dakota resident who is eligible to receive assistance under one of the four major economic assistance programs administered by the Department of Human Services: Public Assistance (formerly Aid to Families with Dependent Children), Food Stamps, Energy Assistance or Medicaid.

***Link Up***

1. Link Up means:
  - (1) A reduction in the carrier's customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reduction shall be half of the customary charge or \$30, whichever is less, and
  - (2) A deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be for connection charges of up to \$200 that are deferred for a period not to exceed one year.
2. Charges assessed for commencing service include any charge that a carrier customarily assesses to connect a subscriber to the network. These charges do not include any permissible security deposit requirements.

3. A carrier's Link Up program shall allow a consumer to receive the benefit of the Link Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link Up assistance was provided previously.

### ***Lifeline***

1. Lifeline service means a retail local telecommunications offering for which qualifying low-income consumers pay reduced charges.
2. Lifeline service includes voice grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation.
3. An eligible telecommunications carrier that charges the \$3.50 federal End-User Common Line charge to a qualified low-income customer shall waive the \$3.50 federal End-User Common Line charge and shall reduce the intrastate portion of the charge for monthly Lifeline service by an additional \$1.75.
4. An eligible telecommunications carrier that supplies support for Lifeline service in addition to that described above shall reduce the intrastate portion of the charge for Lifeline service by \$1.50 for every dollar of additional support supplied.
5. An eligible telecommunications carrier providing Lifeline service shall adjust its lowest tariffed (or otherwise generally available) residential rate for Lifeline service to qualified low-income customers by reducing the total amount due for monthly universal service by \$5.25.
6. A carrier that supplies additional support dollars for Lifeline service shall reduce the total amount due for monthly Lifeline service by an additional amount in a ratio of \$1.50 for every dollar of additional support supplied.
7. An eligible carrier shall offer toll limitation to a qualifying low-income consumer when that consumer subscribes to Lifeline service.
8. An eligible telecommunication carrier may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking from the carrier, where available. If toll blocking is unavailable, the carrier may charge a service deposit.
9. An eligible telecommunications carrier may not disconnect Lifeline service for non-payment of toll charges unless the Commission grants a waiver of this requirement.

10. An eligible telecommunications carrier shall advertise the availability of Lifeline and Link Up services and the charges therefor using media of general distribution as established in the eligible carrier requirements.
11. The Department of Human Services will verify a customer's eligibility to participate in either Lifeline or Link Up.
12. Lifeline must be offered as a separately priced service and must include all of the features described above. The service must be specifically identified as a separate service in the carrier's filed price schedule. A carrier unable to provide toll limitation, access to enhanced 911 service, or single party service must apply for a waiver as provided for in the federal Order.
13. Any reduction in the intrastate portion of a carrier's Lifeline service rate, which will allow a low-income customer to take advantage of the federal offers of additional support, is herewith approved.
14. The Commission encourages all providers of Lifeline and Link Up to offer customer directory listings as part of their offered services.

**PUBLIC SERVICE COMMISSION**

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**Bruce Hagen  
Commissioner**

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**Leo M. Reinbold  
President**

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**Susan E. Wefald  
Commissioner**